

★ DEC 05 2012 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BALWAN SINGH,

X

Plaintiff,

-against-

HOME DEPOT U.S.A., INC.,

Defendant.

FEUERSTEIN, J.

X

ORDER
CV-11-5873(SJF)(GRB)

On June 10, 2011, plaintiff Balwan Singh ("plaintiff") commenced this action against defendant Home Depot U.S.A., Inc. ("defendant") in the Supreme Court of the State of New York, County of Queens, seeking damages for personal injuries allegedly sustained by him while in defendant's store on February 24, 2011. On December 1, 2011, defendant removed the action to this Court on the basis of this Court's diversity jurisdiction under 28 U.S.C. § 1332. Plaintiff did not seek leave to proceed *in forma pauperis* in this action. After repeated adjournments, a bench trial was held before me on November 5, 2012, following which I dismissed the complaint in its entirety. Final judgment was entered in favor of defendant on November 21, 2012. On December 3, 2012, plaintiff *pro se* filed a motion pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure for leave to appeal the judgment *in forma pauperis*. For the reasons set forth herein, the motion is denied.

Rule 24(a)(1) of the Federal Rules of Appellate Procedure provides that, with exceptions not relevant here, a party who desires to appeal *in forma pauperis* must file a motion in the district court and an accompanying affidavit (1) showing the party's inability to pay or to give

security for fees and costs; (2) claiming an entitlement to redress; and (3) stating the issues that the party intends to present on appeal.

In support of his motion to proceed *in forma pauperis*, plaintiff has submitted an affidavit attesting to his purported inability to pay the fees and costs associated with the appeal, but nothing more. Specifically, plaintiff fails to claim an entitlement to redress or to set forth any of the issues that he intends to present on the appeal. Indeed, plaintiff has not filed a notice of appeal of the final judgment to date. Accordingly, plaintiff's motion is denied for failure to comply with Rule 24(a)(1) of the Federal Rules of Appellate Procedure.

Pursuant to Rule 24(a)(4) of the Federal Rules of Appellate Procedure, the Clerk of the Court is directed to immediately notify the parties and the United States Court of Appeals for the Second Circuit of the denial of this motion. Plaintiff may file a motion to proceed on appeal *in forma pauperis* in the United States Court of Appeals for the Second Circuit **within thirty (30) days after service of notice of entry of this order upon him** pursuant to Rule 24(a)(5) of the Federal Rules of Appellate Procedure.

SO ORDERED.

s/ Sandra J. Feuerstein

SANDRA J. FEUERSTEIN
United States District Judge

Dated: December 5, 2012
Central Islip, New York